

EP 0 887 701 (hereinafter referred to as "EP '701"). In the Advisory Action, the Examiner indicates that Applicant's arguments of June 7, 2002 were insufficient because no direct comparison between non-photosensitive fatty acid silver salt made by the process of EP '701 and the claimed process with the closed mixing means was presented. The Examiner further asserts in the Advisory Action, that the present invention is drawn to a

"a thermally processed image forming material which contains different kinds of additives that affect the property of the material. Therefore the properties of the non-photosensitive fatty acid silver salt in the material cannot be determined."

Applicant traverses this rejection and withdrawal thereof is respectfully requested. Claim 1 is drawn to a product made using a closed mixing means. EP '701 discloses the use of conventional methods, i.e. open mixing, for producing non-photosensitive fatty acid silver salt grains. By using the recited process of claim 1, the resulting product has unique properties compared to the product of EP '701. Attached hereto is a Declaration of Inventor Shoji YASUDA, submitted under 37 C.F.R. §1.132. In the experiments of the Declaration, an organic silver salt dispersion "A" was prepared in accordance with the teachings set forth on page 20, lines 40-55 of EP '701. In addition, organic silver dispersion "A'" was prepared in the same manner with the exception that addition of the silver nitrate aqueous solution and the subsequent agitation were

conducted in a closed mixing means, in accordance with the present invention.

Using Dispersions A and A', photothermographic materials (Samples 18-23) were prepared in accordance with Example 1 of the specification. The data of the Table of the Declaration, demonstrates that Samples 21-23 (Dispersion A'), prepared using a closed mixing means in accordance with the present invention, possessed superior properties, as evidenced by the reduced Dmin and superior surface quality (Ranked "B" for the present invention compared to "D" for the sample of EP '701), when compared to Samples 18-20 (Dispersion A), prepared using an open mixing means of EP '701. The Table of the Declaration also contains the data of Table 2 of the specification. A description of the ranking of surface quality may be found on page 93 of the specification.

Thus, the product of the present invention, when prepared in accordance with the recited process, possesses distinct properties that distinguish the product of the invention from that of EP '701. As such, the product of the present invention, which is different from the product of EP '701, due to the process used to make the product, is not anticipated by the reference.

In addition, the present product possesses unexpected advantageous properties compared to the product of EP '701, such that the present product is not obvious over the disclosure of EP

'701. Withdrawal of the rejections and allowance of the claims is therefore respectfully requested.

As the above-indicated remarks address and overcome the rejection of the claims, withdrawal of the rejections and allowance of the claims are respectfully requested. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, PhD (Reg. No. 40,069) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Applicant requests a three (3) month extension of time for filing the present response. The required fee has been submitted with the concurrently filed Notice of Appeal.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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